

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF MISSISSIPPI
GREENVILLE DIVISION

JACKIE RAY PATRICK

PLAINTIFF

VS.

CIVIL NO. 4:01CV275-P-D

E. L. SPARKMAN, ET AL

DEFENDANTS

REPORT AND RECOMMENDATION

Defendants have moved to dismiss this case (Doc. 52) for failure of plaintiff to exhaust his administrative remedies as required by 42 U.S.C. §1997e. Plaintiff has not come forward with a response to the motion or in any way contested the allegations of this motion. Moreover, in his complaint he admits that he has not completed the ARP process on this claim. At this date, any attempt to complete the ARP process would be barred as untimely.

Accordingly, it appears to the court that the motion to dismiss is well taken, and that this case should be dismissed with prejudice.

The parties are referred to 28 U.S.C. 636(b)(1) and Local Rule 72.2(D) for the appropriate procedure in the event any party desires to file objections to these findings and recommendations. Objections are required to be in writing and must be filed within ten days of this date. Failure to file written objections to the proposed finding and recommendations contained in this report within ten days from the date of filing will bar an aggrieved party from challenging on appeal both the proposed factual findings and the proposed legal conclusions accepted by the district court *Douglass v. United Services Automobile Association*, 79 F.3d 1415 (5th Cir. 1996).

Plaintiff is directed to acknowledge receipt of this report and recommendation by signing

the enclosed acknowledgment form and returning it to the court within ten days of this date.

Plaintiff is warned that failure to comply with the requirements of this paragraph may lead to the dismissal of this lawsuit under F.R.Civ.P. 41(b) for failure to prosecute and for failure to comply with an order of the court.

Respectfully submitted, this 15th day of March, 2005.

/s/ Jerry A. Davis
UNITED STATES MAGISTRATE JUDGE